



## **Minutes of the HAZARDOUS WASTE REGULATIONS WORKSHOPS Nevada Division of Environmental Protection**

**August 22, 2002**

Workshops were held on August 13, in Carson City and on August 14, 2002 in Las Vegas. Copies of the proposed state regulations and summaries of the federal rules to be adopted by reference were distributed to the attendees.

Jim Trent of the Bureau of Waste Management made the following remarks:

1. The intent of the workshop is to provide an informal opportunity for the public to comment on the proposed regulations.
2. The proposed revisions to NAC 444.8427, 84275, 850, 8632 and 9452 (Sections 1, 2, 6, 7 and 9) replacing July 1, 2001, with July 1, 2002, are required to update the adoption of federal hazardous waste regulations by reference.
3. The federal rules to be adopted by reference were reviewed. There are a total of six new rules. They include clarifications to the mixture rule, the listing as hazardous of three wastes from the inorganic chemical manufacturing industry (not present in Nevada), revisions to the CAMU rule which remove cleanup disincentives, corrections and reinstatement of interim NESHAP standards and revisions to the definition of solid waste and use of the TCLP in response to a past court decision.
4. In response to recent events involving fires, explosions, waste abandonment and other concerns at hazardous waste recycling facilities the state has initiated revisions to NAC 444.8455 and 84555 (Sections 3 and 4). The revisions are intended to broaden the scope of the existing written determination requirement to expressly include closure, insurance, financial assurance, workplace safety, training, operating standards and management practices. These changes impose some of the safeguards typically afforded by a permit, while still exempting the recycling process from the full permit requirement.
5. The proposed modification to NAC 444.8456 (Section 5) is a result of discussions with the state Office of Historic Preservation. In response to recent written comments from the Office of Historic Preservation, the proposed language will likely be further revised to read as follows; "an area identified by the office of historic preservation of the department of cultural affairs as a significant historical or archeological site eligible for the State or National Register of historic places unless an approved mitigation activity has been completed on the site". This will clarify the existing regulation by specifying that hazardous waste management facilities may not be constructed within a "significant" historical or archeological area without proper mitigation.
6. The proposed change at NAC 444.8632.2 (Section 8) will delete a state-initiated revision approved last year that will become obsolete with the adoption by reference of the Federal Register through July 1, 2002. The issue concerns secondary materials reclaimed by the mineral processing industry and is among the new federal changes approved during the last year (67 FR 17119).

7. The proposed regulations will be presented to the State Environmental Commission (SEC) on September 11, 2002. These permanent regulations should be effective as state regulations in mid-October.

8. After the proposed regulations are adopted and become effective as state regulations, NDEP will submit an updated authorization application to the federal EPA. When that revised application is approved by EPA, Nevada will be authorized to enforce these regulations in lieu of the EPA

9. Questions/*Answers*.

A. Does the authorization process effect tribes? *EPA's authorization of NDEP does not affect tribes. EPA will remain the RCRA authority for Indian lands.*

B. Regarding the proposed changes to the hazardous waste recycling regulations, how do these regulations apply to a facility that has a written determination, or is in the process of obtaining a determination? *In accordance with the provisions of NAC 444.84555(5)(d), the Division may revoke, suspend or modify a written determination if, at any time, the standards or regulations on which the original written determination was based have changed. At such time as the proposed rule changes take effect, the Division will contact each affected facility and call for an operating plan and/or other documentation which demonstrates compliance with the new requirements. The Division anticipates that this demonstration will be made without formal modification of the existing written determination, provided facilities adequately respond within a reasonable time. With the possible exception of the closure plan and financial assurance requirements, most existing facilities are likely already complying with these additional standards and need only document their compliance as part of their operating plan. The closure plan and financial assurance requirements will ensure that facilities plan and provide for the eventual costs of closure during the operating life of the facility.*

C. What are the applicable requirements of 40 CFR Part 264 subparts G and H for closure and financial assurance (per the proposed revisions to NAC 444.855 and 444.8555) and who determines this? *For subpart G (closure plans): Applicable closure requirements/standards generally refer to 264.111 through 264.115. [See 264.110(a)]. For subpart H (financial assurance): Applicable financial assurance requirements generally refer to 264.142, 264.143 and 264.147 through 264.151. [See 264.140(a)].*

D. Will the proposed revisions to the hazardous waste recycling regulations continue to encourage recycling? *NDEP's goal is still to encourage legitimate recycling operations in Nevada. The original intent of the written determination process was not to diminish the exclusionary provisions of RCRA but to allow NDEP to concur with the recycler's exempt status. The proposed revisions allow NDEP to focus on more than just the nature of the recycling. Issues not currently addressed in the written determination; proper closure, insurance, financial assurance, workplace safety, training, operating standards and management practices are incorporated in the proposed changes. While, the proposed changes may increase operating costs for facilities, they should also increase public safety and decrease the need for government-financed cleanups of failed operations.*

E. Why are used antifreeze and precious metals excluded from the proposed revisions to NAC 444.855 and 444.8555? *NDEP believes the existing regulations at NAC 444.8801 for used antifreeze and CFR 266 subpart F for precious metals satisfactorily regulate the recycling of these materials. The proposed regulations will be revised to include a reference to NAC 444.8801 following "used antifreeze" to clarify that used antifreeze is regulated by these existing state regulations not CFR 266.*

F. Will these new regulations apply to Clark County? *Yes, once proposed regulations are adopted by the SEC and then filed with the Secretary of State, they become effective as state regulations.*

A copy of the proposed regulations and workshop minutes may be obtained by calling NDEP at (775) 687-9478 or may be viewed and downloaded via NDEP's public notice website at [ndep.state.nv.us](http://ndep.state.nv.us).